
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 61

**The Scottish Crime and Drug Enforcement
Agency (Scotland) Regulations 2011**

PART 2

GOVERNMENT

Ranks

4. The ranks which may be held in the Agency by police members are—
- (a) Chief Superintendent;
 - (b) Superintendent;
 - (c) Chief Inspector;
 - (d) Inspector;
 - (e) Sergeant;
 - (f) Constable.

Part-time appointments

5.—(1) The Director General may, after consultation with the representative bodies, authorise police members to perform part-time service in any rank.

(2) In these Regulations “part-time service” includes any arrangement by which a police member shares a job with another police member.

(3) A police member appointed to perform part-time service may not be required to serve as a full-time police member without that member’s consent.

(4) A police member appointed to perform part-time service immediately after serving as a full-time member may apply in writing to the Authority to be re-appointed as a full-time member and will be so appointed—

- (a) where the Authority has a suitable vacancy, within 1 month from the date of receipt by the Authority of the application; or
- (b) in any other case, no later than 3 months from the date of receipt by the Authority of the application.

(5) A police member appointed to perform full-time service may not be required to perform part-time service without that member’s consent.

(6) In this regulation, “full-time service” means any work pattern other than a work pattern authorised under this regulation.

(7) In relation to police members appointed under this regulation to perform part-time service regulation 18 has effect as if—

- (a) for paragraph (3) there is substituted—

“(3) In these regulations, “overtime” means time spent on duty in excess of such period as the Scottish Ministers may determine.”; and

(b) paragraph (4) is omitted.

Restrictions on the private life of police members

6.—(1) The restrictions on the private life of police members contained in Schedule 1 (restrictions on the private life of police members) apply.

(2) Subject to regulation 7 no additional restrictions on the private life of police members, except those designed to secure the proper exercise of the functions of a constable, may be imposed by the Authority or the Director General.

Business interests

7.—(1) A police member is not permitted to have a business interest without the consent of—

- (a) the Director General; or
- (b) in circumstances where the Director General has an interest otherwise than in his capacity as such, the Authority.

(2) If a police member—

- (a) acquires or is likely to acquire a business interest; and
- (b) has not previously disclosed that interest to the Director General or (as the case may be) the Authority,

that member must immediately give written notice of that interest to the Director General or (as the case may be) the Authority.

(3) A person applying for appointment as a police member must give written notice to the Authority of any business interest.

(4) A person will be regarded as having a business interest if—

- (a) that person carries on any business or holds any office or employment for hire or gain (otherwise than as a police member);
- (b) that person resides at any premises where any member of that person’s family runs a shop or any similar business;
- (c) that person, or any member of that person’s family living with that person, holds, in relation to any local authority area in Scotland, any licence, certificate or permit relating to liquor licensing or betting and gaming or regulating places of public entertainment or has any pecuniary interest in such a licence, certificate or permit; or
- (d) that person’s spouse, civil partner or cohabitant (in each case, not being separated from that person) runs a shop or any similar business anywhere in Scotland.

(5) For the purposes of this regulation—

“member of that person’s family” includes a person’s parent, son, daughter, brother, sister and, provided they are not separated from that person, spouse, civil partner or cohabitant; and

“cohabitant” means a member of a couple consisting of—

- (i) a man and a woman who are living together as if they are husband and wife; or
- (ii) two people of the same sex who are living together as if they are civil partners.

Qualifications for appointment

8.—(1) The Scottish Crime and Drug Enforcement Agency (Appointment of Police Members) Regulations 2007(1) are amended as follows.

(2) After regulation 3(1)(h) insert—

“(i) must have completed the relevant period of probation prior to appointment;

(2) In this regulation the relevant period of probation means—

(i) probationary service in the rank of constable under regulation 12 of the Police (Scotland) Regulations 2004; or

(ii) an equivalent period of probation with a police force mentioned in paragraph 10(4)(a) to (i) of schedule 1 to the Police, Public Order and Criminal Justice (Scotland) Act 2006.”.

Retirement

9.—(1) Police members may retire in such circumstances as the Scottish Ministers determine.

(2) Where a determination under paragraph (1) sets a requirement for giving notice to the Authority of intention to retire, the Authority may nonetheless accept a shorter period of notice.

Content of personal records

10.—(1) The Director General must cause a personal record to be kept for each police member.

(2) That record must contain—

(a) the home address of the member;

(b) a photograph not more than 10 years old of the member taken in accordance with the directions of the Director General and at the expense of the Authority;

(c) a personal description of the member;

(d) particulars of the member’s place and date of birth;

(e) particulars of the member’s current marriage or civil partnership (if any) and children (if any);

(f) a record of the member’s service (if any) in any branch of Her Majesty’s forces or the civil service;

(g) a record of the member’s service in any police force and transfers (if any) from one police force to another;

(h) a record of whether the member passed or failed to pass a qualifying examination at which the member was a candidate; and

(i) a record of the member’s service in the Agency, including particulars of all promotions, changes of pay, postings, transfers, removals, injuries received, periods of illness, attendances at training courses, commendations, rewards, punishments, disposals other than cautions, and the date of the member ceasing to be a police member with the reason, cause or manner thereof.

(3) A police member is entitled, on request, to inspect that member’s personal record.

Transfer of personal records

11.—(1) Where a police member transfers from the Agency to a police force the Director General must transfer that member’s personal record to that police force.

(2) For regulation 16 of the 2004 Regulations substitute—

“Transfer of personal records

16.—(1) Where a member of a police force transfers to another police force that member’s personal record must be transferred to the chief constable of that other police force.

(2) Where a member of a police force transfers to the Scottish Crime and Drug Enforcement Agency the chief constable of that force must transfer that member’s personal record to the Director General of the Agency.

(3) In this regulation, the reference to a member of a police force transferring to the Scottish Crime and Drug Enforcement Agency is a reference to that member leaving that police force voluntarily for the purpose of taking up an appointment as a police member of the Agency under paragraph 7(2)(c) of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 where no break occurs between service with the police force and service with the Agency.”

Personal record of police member leaving the Agency

12.—(1) Where a person ceases to be a police member and does not transfer to a police force that person must be given a certificate setting out that person’s—

- (a) rank; and
- (b) period of service in the Agency and in any police force.

(2) The Director General may append to the certificate any recommendation which the Director General considers justified in making, for example that the member’s conduct was—

- (a) exemplary;
- (b) very good; or
- (c) good.

(3) Where a person ceases to be a police member and is not appointed as a constable of a police force, that person’s personal record is to be kept for such period of time as the Director General thinks fit and is then to be destroyed.

(4) Regulation 17 of the 2004 Regulations is amended as follows—

- (a) in paragraph (1)—
 - (i) after the words “police force” where they third appear, insert “, or is appointed as a police member of the Scottish Crime and Drug Enforcement Agency (“the Agency”) under paragraph 7(2)(c) of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006,” and
 - (ii) delete the words from “that police force” where they second appear to the end of the paragraph and substitute—
 - “(a) that police force;
 - (b) any other police force; and
 - (c) the Agency.”; and
- (b) in paragraph (3), after the words “police force” where they third appear insert “, or is appointed as a police member of the Agency under paragraph 7(2)(c) of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006,”.

Fingerprints and samples

13.—(1) All police members must have—

- (a) their fingerprints; and
- (b) a sample,

taken in accordance with the directions of the Director General.

(2) Fingerprints of police members taken in accordance with paragraph (1)(a) must be kept separate from the fingerprints of any person whose fingerprints have been taken otherwise than in accordance with that paragraph.

(3) Samples, or the information derived from samples, of police members taken in accordance with paragraph (1)(b) must be kept separate from the samples, or the information derived from samples, taken in accordance with sections 18(2), 19(3), 19A(4) and 19AA(5) of the Criminal Procedure (Scotland) Act 1995, section 56 of the Criminal Justice (Scotland) Act 2003(6), section 87(5A)(c) of the Sexual Offences Act 2003(7) or otherwise lawfully taken and held by or on behalf of any police force or the Agency, or in connection with or as a result of an investigation of an offence.

(4) The fingerprints and samples taken in accordance with paragraph (1) may be used only for the purpose of a comparison against any other fingerprint or sample, or information derived from that sample, taken by or on behalf of any police force, or by the Agency, or in connection with or as a result of the investigation of an offence.

(5) Subject to paragraph (6)—

- (a) the fingerprints of a police member taken in accordance with paragraph (1)(a), and all copies and records of those fingerprints; and
- (b) the samples, or information derived from the samples, taken in accordance with paragraph (1)(b), and all copies and records of those samples,

must be destroyed as soon as practicable after that person ceases to be a police member.

(6) Where a police member transfers to a police force, that person's fingerprints and samples (and information derived from the samples) must be transferred to the chief constable of that force.

(7) In regulation 18(3) of the 2004 Regulations, after the words "another force," insert " , or is appointed as a police member of the Scottish Crime and Drug Enforcement Agency under paragraph 7(2)(c) of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006,".

(8) In regulation 19(4) of the 2004 Regulations(8), after the words "another force," insert " , or is appointed as a police member of the Scottish Crime and Drug Enforcement Agency under paragraph 7(2)(c) of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006,".

(9) In this regulation "sample" means—

-
- (2) 1995 c.46. Section 18 has been amended by the Crime and Punishment (Scotland) Act 1997 (c.48), sections 47 and 62 and Schedule 3; the Crime and Disorder Act 1998 (c.37), section 119 and Schedule 8, paragraph 117; the Terrorism Act 2000 (c.11), section 41 and Schedule 8, paragraph 20; the Criminal Justice (Scotland) Act 2003 (asp 7), section 55; and the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 83 and Schedule 6, paragraph 4.
 - (3) Section 19 has been amended by the Crime and Punishment (Scotland) Act 1997 (c.48), sections 47, 48 and 62 and the Criminal Justice (Scotland) Act 2003 (asp 7), section 55; and the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77.
 - (4) Section 19A was added by section 48 of the Crime and Punishment (Scotland) Act 1997 (c.48) and has been amended by the Criminal Justice (Scotland) Act 2003 (asp 7), section 55; the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77 and schedule 6, paragraph 4; the Sexual Offences (Scotland) Act 2009 (asp 9), schedule 5, paragraph 2; and S.S.I. 2005/465, Schedule 1, paragraph 27.
 - (5) Section 19AA was added by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), section 77.
 - (6) 2003 asp 7.
 - (7) 2003 c.42. Section 87 has been amended by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), sections 77 and 78.
 - (8) Regulation 19 has been amended by S.S.I. 2007/134, regulation 8.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) a sample of hair, other than pubic hair, complete with roots;
- (b) saliva; or
- (c) a swab taken from the mouth.